

REMARKS

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing Amendment, claims 1-31 are pending in the Application, with claims 22-31 withdrawn from consideration by the Examiner as being drawn to a non-elected invention. The Amendment accompanying this response is believed to introduce no new matter and its entry is respectfully requested. Based on the above Amendment and the following remarks, applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn. Support for the Amendment to claim 1 is found in paragraphs [172] and [208] and throughout the specification. Support for the Amendment to claims 2, 14, and 21 is found in paragraphs [172] and [180] and throughout the specification. Support for the Amendment to claim 15 is found in paragraphs [187] and [188] and throughout the specification.

***CLAIM OBJECTIONS***

The Examiner has objected to claims 1-14, 20 and 21 because they are directed to non-elected subject matter, specifically SEQ ID NOS. 1 and 2. The claims have been amended to no longer refer to non-elected subject matter. Applicants respectfully request that the objection be withdrawn. Applicants reserve the right to include claims to the canceled material in future divisional applications.

***REJECTIONS UNDER 35 U.S.C § 112***

Applicants note with thanks withdrawal of the objection to claims 11 and 12 with respect to the biological deposit requirement.

The Examiner has rejected claim 19 for failure to satisfy the requirement that a claim not be amended to include new matter. The Examiner states that there is no explicit or implicit description of the use of the claimed range of sucrose concentrations (0.3 M to 1.0 M) in the specification. The Examiner's attention is respectfully directed to paragraphs [269], [298], and [492], all of which provide explicit description of the use of that range of sucrose concentration. Withdrawal of this rejection of claim 19 is therefore requested.

The Examiner has maintained the rejection of claims 1, 3, 6, 13, and 20 for alleged failure to satisfy 35 U.S.C. § 112, the written description requirement. Applicants believe that amendment of claim 1 is sufficient to overcome this rejection. As the Examiner notes in his response to the Applicant's arguments, Clyne, et al. states, "Although there are general similarities in the organization of ARS elements in budding and fission yeasts, ARS elements from one yeast are generally inactive in the other. . . . While *there are similarities between the essential sequence elements* of different *S. pombe* ARS elements, no strictly conserved sequences comparable to the budding yeast ACS is common to all such elements." (Emphasis added). Even if, as the Examiner asserts, Clyne were to support the proposition that ARS elements are not conserved across different species (and Applicants make no such concession), Clyne is inapplicable to claim 1 as amended and its dependent claims. As the Examiner notes, "Clyne indicates that determining the ability of an ARS element to properly function based upon sequence homology across species is unreliable at best." Applicants have amended claim 1 to

recite an isolated polynucleotide molecule comprising an ARS nucleotide sequence, having the function of enhancing the transformation efficiency and the maintenance of vectors as stable extrachromosomal elements in yeast *Candida famata*.

In light of the Amendment of the claims and the inapplicability of Clyne, Applicants respectfully request that the rejection of claims 1, 3, 6, 13, and 20 be withdrawn and that the claims be allowed.

The Examiner has rejected claims 15-19 under 35 U.S.C. § 112, first paragraph, for alleged lack of enablement. The Office Action notes that the specification is enabling for a method of electroporation of *Candida famata*. In light of the amendment to the claims herein, applicants suggest that this rejection be withdrawn and that claims 15-19, directed to electroporation of *Candida famata*, be allowed.

Claims 2, 4, 5, 7-12, 14 and 21 are objected to as dependent upon a rejected base claim. Applicants submit that this objection is moot in light of the amendment and argument herein. Applicants ask that this objection be withdrawn and the claims allowed.

#### CONCLUSION

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and as such, the present Application is in condition for allowance. If the Examiner believes for

any reason that personal communication will expedite prosecution of this Application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Duane A. Stewart III", with a stylized flourish at the end.

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